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**U.S. Department of the Interior  
Bureau of Land Management  
Kremmling Field Office  
P.O. Box 68  
Kremmling, CO 80459**

## **CATEGORICAL EXCLUSION**

NUMBER: CO-120-2008-41 CX

PROJECT NAME: Dickerson/Cunico Assignment

LEGAL DESCRIPTION: T. 1N., R. 79W., Section 3: NE $\frac{1}{4}$ SE $\frac{1}{4}$

APPLICANT: Carl and Terese Cunico

DESCRIPTION OF PROPOSED ACTION: Carl and Terese Cunico have applied for an assignment of the current right-of-way issued to Dan Dickerson and Marcus Hart for an access road to private land. No other changes would be made to the right-of-way grant. David Nixon has also been granted a right-of-way for this access road.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with the following plan (43 CFR 1610.5, BLM 1617.3):

Name of Plan: Kremmling Resource Management Plan (RMP), Record of Decision (ROD)

Date Approved: December 19, 1984; Updated February 1999

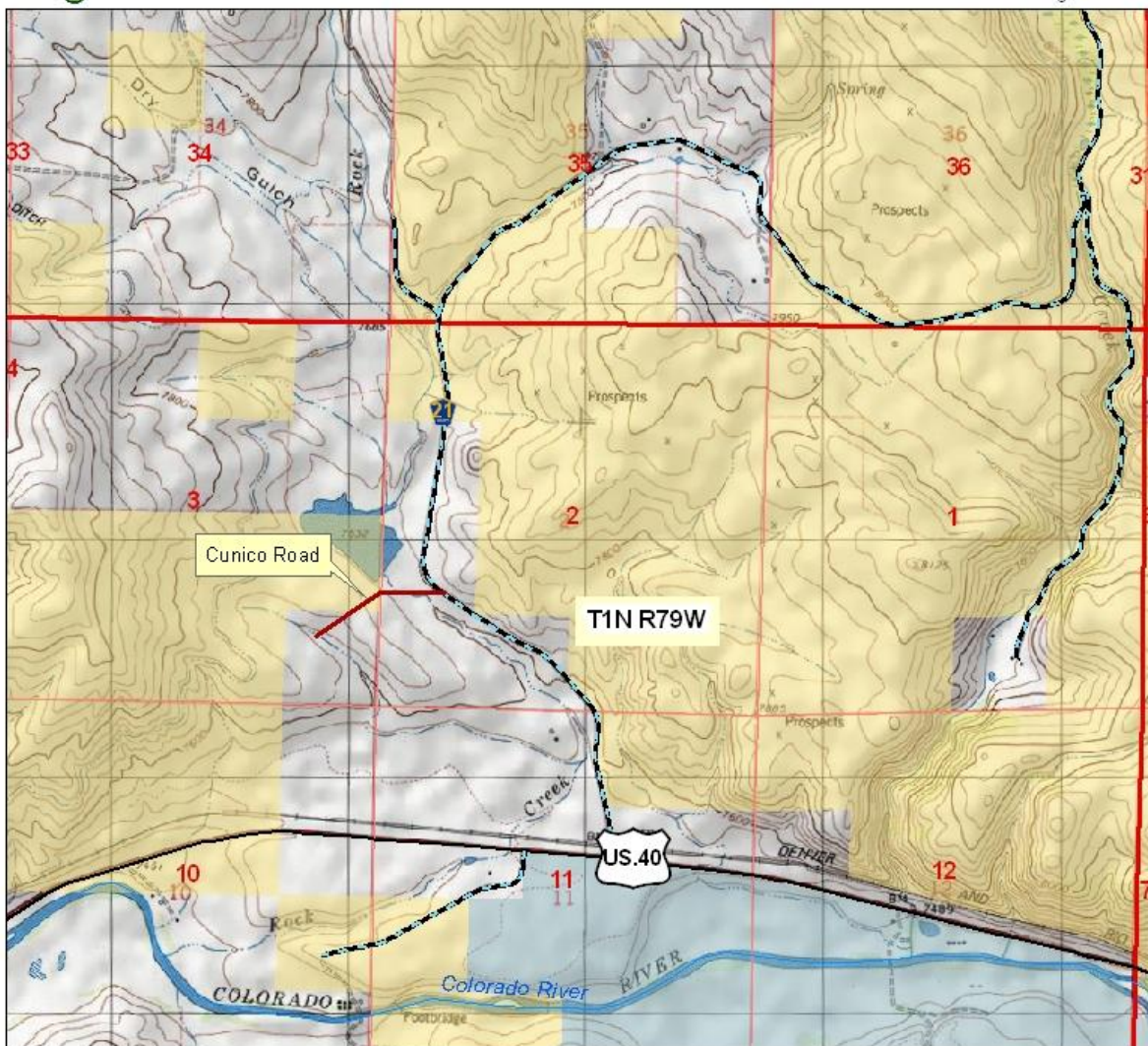
Decision Number/Page: Realty II-12 a., Pg. 14

Decision Language: Provide the opportunity to utilize public lands for development of facilities which benefit the public, while considering environmental and agency concerns.

CATEGORICAL EXCLUSION REVIEW: The Proposed Action qualifies as a categorical exclusion under 516 DM 11, Number: (E) (9) "*Renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.*" None of the following extraordinary circumstances in 516 DM 2, Appendix 2, apply.



# Cunico Access Road



0 0.1 0.2 0.4 Miles

1:24,000

No Warranty is made by the Bureau of Land Management as to the Accuracy, Reliability, or Completeness of this Data for Individual Use or Aggregate Use with Other Data.

Maps: Parshall  
BLM, Kremmling FO 04/14/2008  
gisuser/scassel/Cunico\_road

<b>Extraordinary Circumstances</b>	<b>Yes</b>	<b>No</b>
2.1 Have significant impacts on public health or safety		X
2.2 Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		X
2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)].		X
2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
2.7 Have significant impacts on properties listed, or eligible for listing, on the National Register of historic Places as determined by either the bureau or office.		X
2.8 Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		X
2.9 Violate a Federal Law, or a State, local, or tribal law or requirement imposed for the protection of the environment.		X
2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		X
2.11 Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		X
2.12 Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).		X

**INTERDISCIPLINARY REVIEW:**

<b>Name</b>	<b>Title</b>	<b>Area of Responsibility</b>	<b>Date Review Completed</b>
Susan Cassel	Realty Specialist	Realty	10/16/2008
Joe Stout	Planning and	NEPA	10/17/2008

	Environmental Coord.		
Megan McGuire	Wildlife Biologist	T&E	10/15/2008
Paula Belcher	Hydrologist	Soil, Water, Air	6/26/08
Bill Wyatt	Archaeologist	Cultural	10/15/2008

REMARKS:

Cultural Resources: The BLM conducted a cultural inventory in 1998 (report #KRA-98-53) that located no new cultural resources. The proposed action is a no effect, and there are no historic properties that would be affected.

Native American Religious Concerns: Native American tribal consultation is not necessary for the proposed action that is a transfer of ownership.

Threatened and Endangered Species: There would be no impact to threatened, endangered, or sensitive species.

COMPLIANCE PLAN: The right-of-way would be inspected and monitored periodically during terms of the grants to ensure compliance with the terms and conditions of the grants. The right-of-way would also be inspected after any maintenance activities to determine compliance with and effectiveness of reclamation measures.

NAME OF PREPARER: Susan Cassel

NAME OF ENVIRONMENTAL COORDINATOR: Joe Stout

DATE: 10/17/2008

ATTATCHMENTS: Stipulations

DECISION AND RATIONALE: I have reviewed this CER and have decided to implement the proposed action.

This action is listed in the Department Manual as an action that may be categorically excluded. I have evaluated the action relative to the 12 criteria listed above and have determined that it does not represent an extraordinary circumstance and is, therefore, categorically excluded from further environmental analysis.

SIGNATURE OF AUTHORIZED OFFICIAL: Peter McFadden

DATE SIGNED: 10/20/2008

STIPULATIONS  
FOR  
COC-66801  
Cunico Road

1. The holder shall conduct all activities associated with the operation, and termination of the right-of-way within the authorized limits of the right-of-way.
2. Holder shall maintain the right-of-way in a safe, usable condition, as directed by the authorized officer.
3. Any Sub-Soil ground disturbing activity (four feet or greater depth) will require on-site review by the resource area paleontologist.
4. It is recommended that the holder review the attached Best Management Practices, incorporate the appropriate practices and contact the Army Corps of Engineers before crossing the riparian areas during road construction. (Army Corps of Engineers, 402 Rood Ave., Room 142, Grand Junction, CO 81501-2563).
5. The holder shall be responsible for weed control on disturbed areas and consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).
6. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.
7. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency

or State government.

8. The holder shall seed all disturbed areas, using an agreed upon method suitable for the location. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after the second growing season.
9. The holder shall contact the BLM for the seed mixture needed for all disturbed areas. There shall be no primary or secondary noxious weed seed in the seed mixture. Seed shall be tested and the viability testing of seed shall be done in accordance with State law(s) and within 12 (twelve) months prior to purchase. Commercial seed shall be either certified or registered seed. The seed mixture container shall be tagged in accordance with State law(s) and available for inspection by the authorized officer.

Seed shall be planted using a drill equipped with a depth regulator to ensure proper depth of planting where drilling is possible. The seed mixture shall be evenly and uniformly planted over the disturbed area. (Smaller/heavier seeds have a tendency to drop to the bottom of the drill and are planted first. The holder shall take appropriate measures to ensure this does not occur.) Where drilling is not possible, seed shall be broadcast and the area shall be raked or chained to cover the seed. The seeding shall be repeated until a satisfactory stand is established as determined by the authorized officer. Evaluation of growth shall not be made before completion of the second growing season after seeding. The authorized officer is to be notified a minimum of three days prior to seeding of the project.

10. The holder shall mulch disturbed areas designated by the authorized officer. The type of mulch shall meet one of the following requirements:
  - (a) Straw used for mulching shall be from oats, wheat, rye, or other approved grain crops, and free from noxious weeds or other objectionable material as determined by the authorized officer. Straw mulch shall be suitable for placing with mulch blower equipment.
  - (b) Hay shall be certified weed free. Hay shall be suitable for placing with mulch blower equipment.
  - (c) Wood cellulose fiber shall be natural or cooked wood cellulose fiber, shall disperse readily in water, and shall be nontoxic. The homogeneous slurry or mixture shall be capable of application with power spray equipment. A colored dye that is non-injurious to plant growth may be used when specified. Wood cellulose fiber shall be packaged in new, labeled containers.
11. The holder is responsible for informing all persons in the area who are associated with this project that they shall be subject to prosecution for disturbing historic or archaeological sites, or for collecting artifacts.

The holder shall immediately bring to the attention of the Authorized Officer any and all antiquities, or other objects of historic, paleontological, or scientific interest including but not limited to, historic or prehistoric ruins or artifacts DISCOVERED as a result of operations under this authorization (16 U.S.C. 470.-3, 36 CFR 800.112).

The holder shall immediately suspend all activities in the area of the object and shall leave such discoveries intact until written approval to proceed is obtained from the Authorized Officer. Approval to proceed shall be based upon evaluation of the object(s). Evaluation shall be by a qualified professional selected by the Authorized Officer from a Federal agency insofar as practicable (BLM Manual 8142.06E). When not practicable, the holder shall bear the cost of the services of a non-Federal professional.

Within five working days the Authorized Officer shall inform the holder as to:

- whether the materials appear eligible for the National Register of Historic Places;
- the mitigation measures the holder shall likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and,
- a timeframe for the Authorized Officer to complete an expedited review under 36 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the findings of the Authorized Officer are correct and that mitigation is appropriate.

If the holder wishes, at any time, to relocate activities to avoid the expense of mitigation and/or the delays associated with this process, the Authorized Officer shall assume responsibility for whatever recordation and stabilization of the exposed materials may be required. Otherwise, the holder shall be responsible for mitigation costs. The Authorized Officer shall provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the Authorized Officer that the required mitigation has been completed, the holder shall then be allowed to resume construction.

Antiquities, historic, prehistoric ruins, paleontological or objects of scientific interest that are outside of the authorization boundaries but directly associated with the impacted resource shall also be included in this evaluation and/or mitigation.

Antiquities, historic, prehistoric ruins, paleontological or objects of scientific interest, identified or unidentified, that are outside of the authorization and not associated with the resource within the authorization shall also be protected. Impacts that occur to such resources, that are related to the authorizations activities, shall be mitigated at the holder's cost.

12. Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4 (c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

13. If paleontological materials (fossils) are discovered during surface disturbing activities, the operator is to immediately stop activities that might further disturb such materials and contact the authorized officer. The operator and the authorized officer shall consult and determine the best option for avoiding or mitigating the paleontological site.
14. The holder is responsible for informing all persons in the area who are associated with this project that they shall be subject to prosecution for disturbing historic or archaeological sites, or for collecting artifacts.
15. One month prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection shall be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.